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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/466,113	12/17/1999	JAMES P. KETRENOS	ITL.0248US	9791
21906	7590	10/04/2006		
TROP PRUNER & HU, PC 1616 S. VOSS ROAD, SUITE 750 HOUSTON, TX 77057-2631			EXAMINER MIRZA, ADNAN M	
			ART UNIT	PAPER NUMBER
			2145	

DATE MAILED: 10/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/466,113

Applicant(s)

KETRENOS ET AL.

Examiner

Adnan M. Mirza

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 04/07/2006.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

Examiner withdraws the finality of the rejection and issued a new office action.

#### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

1. Claims 1-24 are rejected under 35 U.S.C. 102(e) as being un patentable by Eagle et al (US, 6,513,048).

As per claims 1,8,17 Eagle disclosed a method comprising: receiving a request for a portion of a file system by a client (col. 2, lines 61-63) identifying whether the portion is stored in a first location associated with portions of the file system that have been previously stored by the client (col.2, lines 36-64); determining whether the portion is stored in a second location associated with portions of the file system that were streamed to the client by a server (col. 5, lines 46-59).

4. As per claim 2,15 Eagle disclosed further comprising retrieving the portion from the server if not stored in the second location (col. 7, lines 65-67 & col. 8, lines 1-4).

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5. As per claim 3,13 Eagle disclosed wherein identifying further comprises associating portions of the file system used by the client during start-up with the first location (col. 7, lines 11-16).
6. As per claims 4,14,19 Eagle disclosed wherein determining further comprises associating the second location with portions of the file system that were streamed to the client using a multicast operation (col. 6, lines 54-66).
7. As per claims 5,22,23 Eagle disclosed wherein associating further comprises: monitoring accesses to a plurality of portions of the file system during start-up; retrieving the plurality of portions from the file system; and storing the plurality of portions in the first location (col. 6, lines 54-66).
8. As per claim 6,20,21 Eagle disclosed wherein associating further comprises: retrieving a plurality of portions from the file system using multicasting; and storing the plurality of portions in the second location (col. 6, lines 54-66).
9. As per claim 7,24 Eagle disclosed further comprising waiting for the portion to be streamed to the client if not stored in the second location (col. 6, lines 54-66).
10. As per claim 9 Eagle disclosed wherein the first location is a non-volatile storage medium (col. 3, lines 11-27).

11. As per claim 10,18 Eagle disclosed wherein the non-volatile storage medium is a flash memory device (col. 3, lines 11-27).

12. As per claim 11 Eagle disclosed wherein the second location is a volatile storage medium (col. 3, lines 11-27).

13. As per claim 12 Eagle disclosed wherein the volatile storage medium is a memory device (col. 3, lines 11-27).

14. As per claim 16 Eagle disclosed wherein the contents of the second location are procured as a background operation (col. 2, lines 57-64)

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-24 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

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15. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Adnan Mirza whose telephone number is (571)-272-3885.

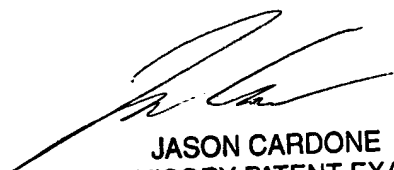
16. The examiner can normally be reached on Monday to Friday during normal business hours. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on (571)-272-3933. The fax for this group is (703)-746-7239. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866)-217-9197 (toll-free).



Adnan Mirza

Examiner



JASON CARDONE  
SUPERVISORY PATENT EXAMINER